

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

COUNTY OF MAUI, )

Complainant, )

vs. )

WAI`OLA O MOLOKA`I, INC., MOLOKAI )  
PUBLIC UTILITIES, INC., AND )  
MOSCO, INC., )

Respondents. )

DOCKET NO. 2008-0116

ORDER DIRECTING RESPONDENTS TO FILE  
AN ANSWER TO COMPLAINANT'S FORMAL COMPLAINT

RECEIVED

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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

PUBLIC UTILITIES  
COMMISSION

2008 JUL 16 P 1:48

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

COUNTY OF MAUI, )  
 )  
 Complainant, )  
 )  
 vs. ) Docket No. 2008-0116  
 )  
 WAI`OLA O MOLOKA`I, INC., MOLOKAI )  
 PUBLIC UTILITIES, INC., AND )  
 MOSCO, INC., )  
 )  
 Respondents. )  
 \_\_\_\_\_ )

ORDER DIRECTING RESPONDENTS TO FILE  
AN ANSWER TO COMPLAINANT'S FORMAL COMPLAINT

By this Order, the commission orders Respondents WAI`OLA O MOLOKA`I, INC., MOLOKAI PUBLIC UTILITIES, INC., and MOSCO, INC. (collectively, "Respondents" or "Molokai Utilities") to file an answer to the attached formal complaint filed by Complainant COUNTY OF MAUI ("Complainant" or "County"),<sup>1</sup> within twenty (20) days after the date of service of this Order.

I.

Formal Complaint

On June 16, 2008, Complainant filed its Formal Complaint with the commission against Respondents, alleging:

On or about May 30, 2008, the Molokai Utilities purported to provide "notice" that, unless some public or private entity assumed their operations, the Molokai Utilities would cease operations, resulting in loss of water

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<sup>1</sup>See County's Formal Complaint, filed on June 16, 2008 ("Formal Complaint").

and sewer services to some 1,200 residents, businesses, and other customers, including the County of Maui. Should the Molokai Utilities make good on this threat, its customers (including the County) will suffer immediate and irreparable harm. Indeed, as the Molokai Utilities are the only providers of drinking water and wastewater services for the western portion of the Island of Molokai, cessation of these services would cause an unprecedented public health catastrophe as well as irreparable harm to the Molokai economy.

The County is not only concerned for the health and well-being of its citizens, but also is directly affected. The Molokai Utilities are the sole source of water supplying fire hydrants along Kaluakoi Road, through Maunaloa town, and in the Kualapuu area. If water for these hydrants should be cut off, the County's ability to fight fires in these areas will be severely compromised.

In addition, the County is a customer of the Molokai Utilities. For example, the County's Department of Parks and Recreation relies on the Molokai Utilities for water for its Papohaku Beach Park and for its Kualapuu Park.<sup>2</sup>

Complainant further alleges that a cessation of service by Respondents would violate Hawaii Revised Statutes § 269-19, and the terms and conditions of each of Respondents' Certificates of Public Convenience and Necessity. Complainant requests several forms of relief from the commission.

Upon review, the Formal Complaint appears to substantially comply with Hawaii Administrative Rules ("HAR") Title 6, Chapter 61, Subchapter 5 of the commission's Rules of Practice and Procedure. Therefore, pursuant to HAR § 6-61-67(e), Respondents must file an answer to the Formal Complaint within twenty (20) days after the date of service of this Order.

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<sup>2</sup>Formal Complaint at 1-2.

II.

Order

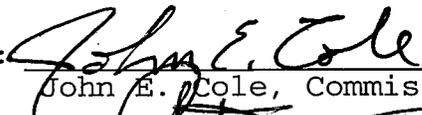
THE COMMISSION ORDERS:

Respondents shall file an answer to the attached Formal Complaint with the commission within twenty (20) days after the date of service of this Order.

DONE at Honolulu, Hawaii JUL 16 2008.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By:   
Carlito P. Caliboso, Chairman

By:   
John E. Cole, Commissioner

By:   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Kaiulani Kidani Shinsato  
Commission Counsel

2008-0116.cp

BEFORE THE PUBLIC UTILITIES COMMISSION

STATE OF HAWAII

In the Matter of

WAIOLA O MOLOKAI; MOLOKAI  
PUBLIC UTILITIES, INC.;  
MOSCO, INC.

Docket No. 2008-

2008-0116

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COUNTY OF MAUI'S FORMAL COMPLAINT  
PURSUANT TO HAR §§ 6-61-15 et seq

VERIFICATION OF CHARMAINE TAVARES

CERTIFICATE OF SERVICE

FILED  
2008 JUN 16 P 2:44  
PUBLIC UTILITIES  
COMMISSION

DEPARTMENT OF THE CORPORATION COUNSEL

BRIAN T. MOTO 5421  
Corporation Counsel  
JANE E. LOVELL 7551  
Deputy Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793  
Telephone No. (808) 270-7740  
Facsimile No. (808) 270-7152

Attorneys for Complainant  
COUNTY OF MAUI

)

**COUNTY OF MAUI'S FORMAL COMPLAINT  
PURSUANT TO HAR §§ 6-61-15 et seq**

Comes now, COUNTY OF MAUI, by and through its attorneys, BRIAN T. MOTO, Corporation Counsel, and JANE E. LOVELL, Deputy Corporation Counsel, and hereby lodges this Formal Complaint against WAIOLA O MOLOKAI; MOLOKAI PUBLIC UTILITIES, INC.; and MOSCO, INC. pursuant to HAR §§ 6-61-15 et seq., as follows:

**I. THE PARTIES**

This Formal Complaint (hereafter, "Complaint") is filed by the County of Maui (hereafter, "County"), c/o Brian T. Moto, Corporation Counsel, 200 S. High Street, Wailuku, HI 96793. The Respondents are Waiola O Molokai, Molokai Public Utilities, Inc., and Mosco, Inc. (collectively, "Molokai Utilities"). County is informed and believes that the address of Respondents is 745 Fort Street, # 600, Honolulu, Hawaii 96813.

**II. STATEMENT OF FACTS**

On or about May 30, 2008, the Molokai Utilities purported to provide "notice" that, unless some public or private entity assumed their operations, the Molokai Utilities would cease operations, resulting in loss of water and sewer services to some 1,200 residents, businesses, and other customers, including the County of Maui. Should the Molokai Utilities make good on this threat, its customers (including the County) will suffer immediate and irreparable harm. Indeed, as the Molokai Utilities are the only providers of drinking water and wastewater services for the western portion of the Island of Molokai, cessation of these

services would cause an unprecedented public health catastrophe as well as irreparable harm to the Molokai economy.

The County is not only concerned for the health and well-being of its citizens, but also is directly affected. The Molokai Utilities are the sole source of water supplying fire hydrants along Kaluakoi Road, through Maunaloa town, and in the Kualapuu area. If water for these hydrants should be cut off, the County's ability to fight fires in these areas will be severely compromised.

In addition, the County is a customer of the Molokai Utilities. For example, the County's Department of Parks and Recreation relies on the Molokai Utilities for water for its Papohaku Beach Park and for its Kualapuu Park.

County reserves the right to amend this Complaint to add a complete list of all County public services and facilities that would be directly affected by the Molokai Utilities' threatened cessation of utility services.

### **III. VIOLATIONS OF LAW ALLEGED**

The threatened unilateral cessation of service by the Molokai Utilities would violate, inter alia, HRS § 269-19. County also believes that abrupt cessation of service would violate the terms and conditions of each of the Molokai Utilities' Certificates of Public Convenience and Necessity (hereinafter, "CPCN"), copies of which are not at this time in the County's possession. County reserves the right to amend this Complaint after it has had an opportunity to review the Molokai Utilities' CPCNs.

IV. RELIEF REQUESTED

County requests that pursuant to its powers and duties under Chapter 269, Hawaii Revised Statutes, and its administrative rules, the Commission take the following measures:

1. Immediately issue an order to show cause why the Molokai Utilities should not be prohibited from ceasing operations or transferring or disposing of utility assets;
2. Require that the Molokai Utilities prepare and submit a plan for the continued operation of the Molokai Utilities beyond August 2008;
3. Issue any necessary subpoenas or subpoenas duces tecum;
4. Review any information or plans of the Molokai Utilities for the transfer or other disposition of utility assets or operations;
5. Investigate each of the Molokai Utilities and their respective operations, revenues, assets, practices, and services; and
6. Disseminate information obtained through its investigation to utility customers and the public.

County reserves its right to request additional relief should the Commission's investigation reveal a need for the same.

DATED: Wailuku, Maui, Hawaii, June 13, 2008.

BRIAN T. MOTO  
Corporation Counsel  
Attorneys for Complaint  
COUNTY OF MAUI

By:

  
Jane E. Lovell  
Deputy Corporation Counsel

VERIFICATION

STATE OF HAWAII            )  
  ) SS.  
COUNTY OF MAUI            )

Charmaine Tavares, being first duly sworn, deposes and says:

That she is the duly-elected Mayor of the County of Maui, the Complainant herein; that she is authorized to lodge this Complaint with the PUC; that she has read the foregoing Complaint and knows the contents thereof; and that the contents of the Complaint are true to the best of her knowledge, information, and belief.

  
Charmaine Tavares, Mayor  
County of Maui

Subscribed and sworn to before me this  
12th day of June, 2008.

*Kelii P. Nahooikaika*  
**Kelii P. Nahooikaika**

Notary Public, State of Hawaii  
My commission expires: 4/20/2010



BEFORE THE PUBLIC UTILITIES COMMISSION

STATE OF HAWAII

In the Matter of

WAIOLA O MOLOKAI; MOLOKAI  
PUBLIC UTILITIES, INC.;  
MOSCO, INC.

Docket No. 2008-\_\_\_\_\_

**CERTIFICATE OF SERVICE**

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served upon the following by First Class Mail, by depositing copies bearing sufficient postage with the U.S. Post Office, addressed as follows:

Peter A. Nicholas, Director  
Waiola O Molokai  
Molokai Public Utilities, Inc.  
Mosco, Inc.  
745 Fort Street, # 600  
Honolulu, Hawaii 96813

Catherine P. Awakuni, Executive Director  
CONSUMER ADVOCATE  
Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs  
335 Merchant Street, Room 326  
Honolulu, HI 96813

DATED: Wailuku, Maui, Hawaii, June 13, 2008.

BRIAN T. MOTO  
Corporation Counsel  
Attorneys for Complaint  
COUNTY OF MAUI

By:

  
Jane E. Lovell  
Deputy Corporation Counsel

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

CATHERINE P. AWAKUNI (Two Copies)  
EXECUTIVE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

P.A. NICHOLAS  
MOLOKAI PUBLIC UTILITIES, INC.  
WAI`OLA O MOLOKA`I, INC.  
MOSCO, INC.  
745 Fort Street Mall, Suite 600  
Honolulu, HI 96813

BRIAN T. MOTO, CORPORATION COUNSEL  
JANE E. LOVELL, DEPUTY CORPORATION COUNSEL  
DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 South High Street  
Wailuku, Maui, HI 96793

Attorneys for County of Maui